

Iowa State Laws

Child in Need of Assistance (CINA) Proceedings Iowa Code Section 232.2(6), Statutory Definitions

Allegations of child abuse or neglect included in a CINA petition and ordered at the adjudication hearing are referenced here. For complete definitions, see Iowa Code Section 232.2(6).

6 (A)	Abandonment
6 (B)	Physical Abuse
6 (C)	Harmful Effect as a Result of:
(1)	(1) Mental Injury
(2)	(2) Failure to Exercise Reasonable Degree of Care
6 (D)	Sexual
6 (E)	Medical Treatment Needed
6 (F)	Mental Treatment Needed
6 (G)	Not Providing Food, Shelter, etc.
6 (H)	Delinquent Act at Parent's Request
6 (I)	Child Pornography
6 (J)	Without Parent or Guardian
6 (K)	Good Cause – Parent
6 (L)	Good Cause – Child
6 (M)	Chemical Dependency (Child)
6 (N)	Chemical Dependency (Parent)
6 (O)	Drug Exposed Infant or Child
6 (P)	Unlawfully manufactures a dangerous substance in the presence of child
6 (Q)	Who is newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233

Child Abuse Reporting, Assessment, and Rehabilitation
Iowa Code Section 232.68

The definitions in section 235A.13 are applicable to this part 2 of division III. As used in sections 232.67 through 232.77 and 235A.12 through 235A.24, unless the context otherwise requires:

1. *"Child"* means any person under the age of eighteen years.
2. *"Child abuse"* or *"abuse"* means:
 - a. Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.
 - b. Any mental injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.
 - c. The commission of a sexual offense with or to a child pursuant to chapter 709, section 726.2, or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child. Notwithstanding section 702.5, the commission of a sexual offense under this paragraph includes any sexual offense referred to in this paragraph with or to a person under the age of eighteen years.
 - d. The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child; however this provision shall not preclude a court from ordering that medical service be provided to the child where the child's health requires it.
 - e. The acts or omissions of a person responsible for the care of a child which allow, permit, or encourage the child to engage in acts prohibited pursuant to section 725.1. Notwithstanding section 702.5, acts or omissions under this paragraph include an act or omission referred to in this paragraph with or to a person under the age of eighteen years.
 - f. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.
 - g. The person responsible for the care of a child has, in the presence of the child, as defined in section 232.2, subsection 6, paragraph "p", manufactured a dangerous substance, as defined in section 232.2, subsection 6, paragraph "p", or in the presence of the child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.
 - h. The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.
 - i. Knowingly allowing a person custody or control of, or unsupervised access to a child or minor, after knowing the person is required to register or is on the sex offender registry under chapter 692A for a violation of section 726.6.

**Iowa Administrative Code – Human Services [441]
Chapter 175
Abuse of Children**

Excerpt from 441 – 175.21(232,235A) Definitions:

“Denial of critical care” means the failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision or other care necessary for the child’s health and welfare when financially able to do so, or when offered financial or other reasonable means to do so, and shall mean any of the following:

- 1) Failure to provide adequate **food and nutrition** to such an extent that there is a chance of the child suffering harm, injury, or death.
- 2) Failure to provide adequate **shelter** to such an extent that there is danger of the child suffering harm, injury or death.
- 3) Failure to provide adequate **clothing** to such an extent that there is danger of the child suffering harm, injury, or death.
- 4) Failure to provide adequate **health care** to such an extent that there is a danger of the child suffering serious harm, injury, or death. (Health care could include, medical, dental, and optometric care). A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing a child. However, a court may order that medical services be provided where the child’s health requires it.
- 5) Failure to provide the **mental health care** necessary to adequately treat an observable and substantial impairment in the child’s ability to function.
- 6) Gross failure to meet the **emotional needs** of the child necessary for normal development.
- 7) Failure to provide for the **adequate supervision** of the child that a reasonable and prudent person would provide under similar facts and circumstances when the failure results in direct harm or creates a risk of harm to the child.
- 8) Failure to respond to **the “infant’s” life threatening conditions** (also known as withholding of medically indicated treatment) by providing treatment (including appropriate nutrition, hydration, and medication) which in the treating physician’s reasonable medical judgment will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include failure to provide treatment (other than appropriate nutrition, hydration or medication) to an infant when, in the treating physician’s reasonable medical judgment any of the following circumstances apply: the infant is chronically and irreversibly comatose; the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant’s life-threatening conditions, or otherwise be futile in terms of the survival of the infant; the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane.

“Infant” as used in the definition of “denial of critical care” (#8 above) shall mean (1) an infant less than one year of age OR (2) an infant older than one year of age who has (a) been continuously hospitalized since birth, (b) who was born extremely premature, or (c) who has a long-term disability.

“Proper supervision” means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall the person place a child in a situation that may endanger the child’s life or health, or cruelly or unduly confine the child.

Dangerous operation of a motor vehicle is a failure to provide proper supervision when the person responsible for the care of a child is driving recklessly, or driving while intoxicated with the child in the motor vehicle. The failure to restrain a child in a motor vehicle does not, by itself, constitute a cause to assess a child abuse report.

Additional Iowa Code Sections for Reference

- 232.69 Mandatory and permissive reporters – training required.
- 232.70 Reporting procedure.
- 709.1 Sexual abuse defined.
- 709.1A Incapacitation
- 709.2 Sexual abuse in the first degree
- 709.3 Sexual abuse in the second degree
- 709.4 Sexual abuse in the third degree

ADAPTED FROM
Chapter 232.104 PERMANENCY HEARING RECOMMENDATIONS/ORDERS

1. a. The time of the initial permanency hearing for a child subject to out-of-home placement shall be the earlier of the following:
 - (1) Within twelve months of the date the child was removed from the home, if reasonable efforts have not been waived.
 - (2) Within thirty days of the date reasonable efforts have been waived.
 - b. The permanency hearing may be held concurrently with a hearing to review, modify, substitute, vacate, or terminate a dispositional order.
 - c. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings and make a determination identifying a primary permanency goal for the child. If a permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and complying with the other provisions of that permanency plan.
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2. After a permanency hearing the court shall do one of the following:
 - a. Return the child home per section 232.102.
 - b. Continue the current placement for 6 more months and then consider modification of the permanency order at the six month hearing. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

c. Direct the county attorney or the child's attorney to institute proceedings for termination of parental rights.

d. The Court's fourth choice gives four (4) more options:

(1) Transfer guardianship and custody of the child to a suitable person.

(2) Transfer sole custody of the child from one parent to another parent.

(3) Transfer custody of the child to a suitable person for the purpose of long term care.

(4) If the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph would not be in the child's best interest, order another planned permanent living arrangement for the child.

3. Before the Court can choose one of these four (4) options, convincing evidence must exist showing that all of the following apply:

a. A termination of parental rights would not be in the child's best interests.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to his/her home.

4. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

5. When an order has previously suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.

6. Subsequent to the entry of a permanency order, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence, that returning the child to such custody would be in the best interest of the child.

7. Following an initial permanency hearing and the entry of an order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing.